

REMARKS

Claims 1 - 3, 6 - 8 and 11 stand rejected under 35 U.S.C. §102(b) as being anticipated by Wall et al. Claims 4, 5, 9, 10, and 12 - 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Wall et al in view of Stoner. The Examiner's review is appreciated in this highly unusual rejection after the Board of Patent Appeals decision. In view of the above amendment and following remarks, the Examiner is respectfully requested to reconsider the outstanding rejections and allow the present application to issue.

The present invention provides an apparatus and method for tilting a beverage pot with respect to a warming plate. This is accomplished by tilting one portion of the pot using a small wedge, while maintaining a minority of the pot in point contact with the warming plate.

In contrast to the present invention, the Wall et al patent discloses "an inexpensive wedge adapted to be inserted under a frying or other pan employed in cooking." (Wall 1:18-19.) The Wall et al device is designed for times when it is "desirable to have the bulk of [sauces, essences, frying fat or the like] removed from or maintained out of direct association with the particular food substance while the same is being cooked." (Wall 1:21 - 26.)

Stoner illustrates one example of the well-known prior art warming plates in combination with a coffee pot, and including a retaining ridge. There is no attempt to tilt the pot, nor to maintain point contact with the plate. Furthermore, there is no teaching in either Wall et al or Stoner of a spacer having a thickness less than an elevation of a pot retaining feature, or of carrying a space for an insignia. This much the Examiner and applicant agree upon.

The Examiner relies upon the Stoner patent for teaching the use of a coffee pot and warming plate that, when presented to one of ordinary skill in the art, would allegedly be obvious to be combined with the spacer of Wall et al. This combination, in and of itself, is highly suspect. The Wall et al device is clearly and entirely directed to draining cooking fluids from the food substance being cooked. There is no suggestions or teachings in Wall et al of the same being applied to anything other than a stove top or within an oven.

The present claims as amended, and as found in previously dependent claims 5 and 10, further recite that the spacer has a thickness or height less than the retaining ridge. This relationship is described by the applicant in the present specification on page 10 in lines 8 - 10: "Additionally, coffee saver 10 will most preferably have a thickness or height less than retaining

ridge 21, so as to not disrupt or interfere consequentially with the stability of beverage pot 30 within retaining ridge 21.” The benefit of this added stability, in this era of the hot coffee lawsuit filed against MacDonalds Corporation, cannot be understated.

The references are silent on this feature recited in these claims 5 and 10. In the present rejection, the Examiner simply dismisses this feature as “a matter of design choice”. Contrary thereto, the applicant’s representative observes that neither Wall et al nor Stoner provide any reason, suggestion, motivation or even a hint at the benefits that may be obtained from the invention as recited by the claims. Nevertheless, the applicant recognized this benefit, and has recited it in within the claim language in accord with the patent statutes and rules.

In view of the present amendment and remarks, the Examiner is respectfully requested to reconsider the rejection of record and allow the present application to issue. No new matter is introduced.

During the extended examination which has now consumed almost six years, and more specifically during pendency of the appeal from the previous rejection, the inventor passed away. In respect to his legacy, his heirs, which are his children, respectfully request the Examiner provide full and fair consideration of the novelty of the present invention. In that regard, should there remain any open issues in this application which might be resolved by telephone, or suggestions the Examiner might make to advance the prosecution of this application, the Examiner is respectfully requested to call the undersigned at 320-363-7296 to discuss the advancement of this application.

Sincerely,



Albert W. Watkins

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